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09/858,269	05/15/2001	Manoel Tenorio	020431.0842	2683

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EXAMINER

RAYYAN, SUSAN F

ART UNIT PAPER NUMBER

2167

DATE MAILED: 10/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/858,269

Applicant(s)

TENORIO, MANOEL

Examiner

Susan F. Rayyan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-51 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration:
5) ☒ Claim(s) 10,21 and 32 is/are allowed.
6) ☒ Claim(s) 1-8, 11-20, 22-31 and 33-51 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 15 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/28/04, 8/6/04
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-8, 10-51 are pending.

Information Disclosure Statement

2. Information Disclosure Statements filed May 28, 2004 and August 6, 2004 have been considered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-8,11-20,22-31,33-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ford et al. US Patent Application Publication (Pub. No.: US 2003/0195877) in view of Spiegel et al. (US 6, 466,918 B1) and further in view of Alsberg et al. (US 2001/0032162).

As per claims 1,12,23 Ford teaches:

a database containing a buyer profile (category preference profile of the user at p.1, paragraph 9, lines 4-5) associated with a buyer, the buyer profile comprising

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a record of the number of times ... sort criteria has appeared in at least some previous events involving the buyer (p.12, paragraph 143, lines 15-23); and a server operable to:

receive a plurality of search results communicated from one or more seller databases in response to an under-constrained search query in which exact attribute values are not specified for one or more attributes at paragraph 40,47 and 103, lines 1-3;

access the buyer profile (category preference profile of the user at p.1, paragraph 9, lines 4-5) to determine an order of display based on the number of times one or more sort criteria in the buyer profile applicable to the search results have appeared in the previous events involving the buyer (p.12, paragraph 143, lines 15-23); sort the search results according to the determined order of display at paragraph 136;

communicate the sorted search results to the buyer at paragraph 136 and fig. 6.

Ford does not explicitly teach plurality of sort criteria however Spiegel teaches a plurality of sort criteria at col.6, lines 5-13 and 40-50 and col.8, lines 60-66 and col.9, line 64 bridging to col.10, line7. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the cited references to provide an alternative method for evaluating popularity levels of specific books (col.15, lines 48-54).

Ford and Spiegel do not explicitly teach plurality of seller-oriented sort criteria ... however Alsberg does teach this limitation at parg.. 103 and parg.

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114, whereas Spiegel's attributes related to the seller such as location are similar to the Applicant's claimed seller attributes. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the cited references to determine a buyer's price based on seller attributes at parg. 114, lines 13-16.

As per claims 2,13, 24 same as claim arguments above and Ford teaches: wherein an attribute value is selected from the group consisting... of a seller attribute value at p.4, paragraph 40. Spiegel more explicitly teaches a product attribute value at col.4, lines 53-61 and col. 6, lines 11-13. Thus it would have been obvious to one of ordinary skill in the art to combine the cited reference to assist users in locating popular products (co.1, lines 66-67).

As per claim 3,14,25 are rejected by the same subject matter of claims 2,13,24.

As per claim 4,15,26 same as claim arguments above and Spiegel teaches: wherein an event is selected from the group consisting of a search query, a sort request, and a search result selection at col.10, lines 2-10.

As per claim 5,16,27 same as claim arguments above and Ford teaches: wherein the server is operable to determine the order of display according to the number of times each of a plurality of attribute values has appeared in events involving the buyer at p.9, paragraphs 103-105.

As per claim 6,17,28 same as claim arguments above and Spiegel teaches:

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wherein the server is operable to determine the order of display according to the number of times each of a plurality of attributes has appeared in events involving the buyer at col.6, lines 10-14 and col.9, lines 6 bridging to col.10, line 10.

As per claim 7,18,29 Ford teaches:

a database containing a buyer profile (category preference profile of the user at p.1, paragraph 9, lines 4-5) associated with a buyer, the buyer profile comprising a record of the number of times ... sort criteria has appeared in at least some previous events involving the buyer (p.12, paragraph 143, lines 15-23); and a server operable to:

receive a plurality of search results communicated from one or more seller databases in response to an under-constrained search query in which exact attribute values are not specified for one or more attributes at paragraph 40,47 and 103, lines 1-3;

access the buyer profile (category preference profile of the user at p.1, paragraph 9, lines 4-5) to determine an order of display based on the number of times one or more sort criteria in the buyer profile applicable to the search results have appeared in the previous events involving the buyer (p.12, paragraph 143, lines 15-23);

sort the search results according to the determined order of display at paragraph 136;

communicate the sorted search results to the buyer at paragraph 136 and fig. 6.

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Ford does not explicitly teach plurality of sort criteria however Spiegel teaches a plurality of sort criteria and wherein the server is operable to determine the order of display according to the number of times a leading attribute value for each of a plurality of attributes has appeared in events involving the buyer, a leading attribute value for an attribute being the attribute value appearing more often than any other attribute value for the attribute at col.6, lines 5-14 and 40-50 and col.8, lines 60-66 and col.9, line 64 bridging to col.10, line 7. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the cited references to provide an alternative method for evaluating popularity levels of specific books (col.15, lines 48-54).

As per claim 8 19,30 same as claim arguments above and Ford teaches: wherein the buyer profile comprises a record of the number of times each of a plurality of sort criteria has appeared in a specified number of recent events involving the buyer at p. 12, paragraph 143, lines 15-23.

As per claim 20,31 same as claim arguments above and Ford teaches: Delete a record for a sort criterion from the buyers profile...predetermined period of time or within a specified number of recent events at p.10, paragraph 119.

As per claim 11,22,33 same as claim arguments above and Ford teaches: wherein the search query is under-constrained in that no attribute values are specified for one or more attributes at paragraph 40,47 and 103, lines 1-3.

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As per claim 34 Ford teaches:

a database containing a buyer profile (category preference profile of the user at p.1, paragraph 9, lines 4-5) associated with a buyer, the buyer profile comprising a record of the number of times each of a plurality of attribute values has been specified in at least some previous search queries received from the buyer (p.12, paragraph 143, lines 15-23);

a server operable to:

receive a plurality of search results communicated from one or more seller databases in response to an under-constrained search query in which exact attribute values are not specified for one or more attributes at paragraph 40,47 and 103, lines 1-3;

access the buyer profile to determine an order of display of the search results based on the number of times one or more of the attribute values in the buyer profile that correspond to the attribute values left unspecified in the search query have been specified in the previous search queries received from the buyer, such that a first search result comprising a first attribute value that has been specified in a first number of previous search queries received from the buyer will be displayed within an ordered list ahead of a second search result comprising a second attribute value that has been specified in a second number of previous search queries received from the buyer if the first number is greater than the second number at p.11, paragraph 136;

sort the search results according to the determined order of display at paragraph 136;

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communicate the sorted search results to the buyer at paragraph 136 and fig. 6.

Ford does not explicitly teach each attribute value being a product attribute value or a seller attribute value however Spiegel does teach a product attribute value at col. 9, lines 64, bridging to col.10, lines 10 (Product histories are tracked including products purchased). Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the cited references to assist users in locating popular products and/or product categories within a catalog (col.1, line 67 bridging to col. 2, line 1).

Ford and Spiegel do not explicitly teach plurality of seller attribute ... however Alsberg does teach this limitation at parag. 103 and parag. 114, whereas Spiegel's attributes related to the seller such as location are similar to the Applicant's claimed seller attributes. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the cited references to determine a buyer's price based on seller attributes at parag. 114, lines 13-16.

As per claim 35,36 Ford teaches:

receiving a plurality of search results communicated from one or more seller databases in response to a an under-constrained search query in which exact attribute

values are not specified for one or more attributes at paragraph 40,47 and 103, lines 1-3;

accessing a buyer profile associated with a buyer, the buyer profile (category preference profile of the user at p.1, paragraph 9, lines 4-5) comprising a record

of the number of times each of a plurality of attribute values has been specified in at least some previous search queries received from the buyer (p.12, paragraph 143, lines 15-23);

determining an order of display of the search results based on the number of times one or more of the attribute values in the buyer profile that correspond to the attribute values left unspecified in the search query have been specified in the previous search queries received from the buyer, such that a first search result comprising a first attribute value that has been specified in a first number of previous

search queries received from the buyer will be displayed within an ordered list ahead

of a second search result comprising a second attribute value that has been specified in a second number of previous search queries received from the buyer if the first number is greater than the second number p.11, paragraph 136;

sorting the search results according to the determined order of display paragraph 136 and fig. 6; and

communicating the sorted search results to the buyer paragraph 136 and fig. 6.

Ford does not explicitly teach each attribute value being a product attribute value or a seller attribute value however Spiegel does teach a product attribute value at col. 9, lines 64, bridging to col.10, lines 10 (Product histories are tracked including products purchased). Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the cited

references to assist users in locating popular products and/or product categories within a catalog (col.1, line 67 bridging to col. 2, line 1).

Ford and Spiegel do not explicitly teach plurality of seller attribute ... however Alsberg does teach this limitation at parg. 103 and parg. 114, whereas Spiegel's attributes related to the seller such as location are similar to the Applicant's claimed seller attributes. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the cited references to determine a buyer's price based on seller attributes at parg. 114, lines 13-16.

As per claims 37,42,47 same as claim arguments above and Alsberg teaches wherein at least one seller attribute comprises a physical location of the seller at parg. 103.

As per claims 38,43,48 same as claim arguments above and Alsberg teaches wherein at least one seller attribute comprises a type of currency accepted by a seller at parg. 103, wherein the Alsberg's attributes relating the seller are similar to the Applicant's claimed limitation.

As per claims 39,44,49 same as claim arguments above and Ford teaches:

the buyer profile further comprises a record of the number of times each of a plurality of product-oriented sort criteria has appeared in at least some previous events ... at parg. 143

the server is operable to determine the order of display ... product-oriented sort criteria in the buyer profile... at parg.143.

As per claims 40-41,45-46,50-51 same as claim arguments above and Ford teaches wherein an event is selected from a group consisting of a search query, a sort request, and a search result selection at parg. 143.

Allowable Subject Matter

5. Claims 10,21,32 are allowed.

Response to Arguments

6. Applicant's arguments filed on May 28, 2004 have been fully considered but they are not persuasive.
7. Applicant's arguments with respect to claims 1,12,23,34-36 have been considered but are moot in view of the new ground(s) of rejection.
8. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Examiner maintains reason to combine is proper. Clearly from the cited section Examiner maintains combination is proper.

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9. Applicant argues the combination of Ford and Spiegel do not teach order of display according to the number of times a leading attribute value ... however Examiner maintains Ford teaches maintaining a complete history of user actions and providing an individualized presentation based weighted factors which indicates displaying based on leading attributes in addition Spiegel does teach elevated for display which clearly illustrates order of display. Both Applicant and Spiegel teach display elements which indicate attributes regarding purchasing activities at col. 6, lines 5-20.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Rayyan whose telephone number is (703) 305-0311. The examiner can normally be reached M-F: 8am - 4:30pm.

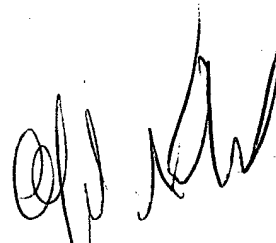
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on 703-305-9790. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for Official communications, (703) 746-7238 for After Final communications and (703) 746-7240 for Status inquiries and draft communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Susan Rayyan



October 6, 2004



ALFORD KINDRED
PRIMARY EXAMINER